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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/677,018	10/01/2003	Richard G. Reynolds	Reynolds 60/415,060	9523
7590 04/30/2004			EXAMINER	
James G. Uber, Esq. Mine Safety Appliances Company P.O. Box 426 Pittsburgh, PA 15230-0426			PATEL, TAJASH D	
			ART UNIT	PAPER NUMBER
			3765	

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)	
	10/677,018	REYNOLDS ET AL.	
	Examiner	Art Unit	
	Tejash D Patel	3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 15-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 9, 10, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Rourke (US 5,433,289). O'Rourke discloses a body harness (2) including a pair of shoulder straps (4), a pair of leg/subpelvic straps (6,28) and a spreading back pad (22) in which each of the shoulder strap passes therethrough and is connected the leg straps as shown in figure 2. In addition, each of the shoulder straps, and leg/subpelvic straps are curved about the body when harness is worn. Furthermore, the end of the leg straps is connected to a leg buckle as shown in figure 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 3 and 13-14 rejected under 35 U.S.C. 103(a) as being unpatentable over O'Rourke.

With regard to claim 3, it would have been obvious to one skilled in the art that the back pad of O'Rourke can be generally Y-shaped as required for a particular application or end use thereof.

With regard to claim 13, it would have been obvious that the curved straps of O'Rourke can be made of any desired material that were available at the time device was constructed.

With regard to claim 14, it would have been obvious that the curved straps of O'Rourke can be formed of any required width depending on the particular application thereof.

5. Claim 2 and 4-6 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Rourke in view of Neustater et al. (US 5,960,480). O'Rourke discloses the invention as set forth above except for showing the back pad being X-shaped with openings in upper and lower arms.

Neustater et al. (hereinafter Neustater) discloses a body harness including a pair of shoulder straps (38, 40), a pair of leg straps and a spreading back X-shaped pad (28) having openings in upper and lower arms such that each of the shoulder strap passes therethrough and is connected the leg straps as shown in figure 3.

It would have been obvious to one skilled in the art at the time the invention was made to substitute the back pad of O'Rourke with an X-shaped back pad as taught by Neustater as an

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alternative but equivalent means of passes the shoulder straps therethrough as known in the art. Furthermore, it would have been obvious the shoulder strap of O'Rourke when viewed with Neustater is crossed when it passes through the back pad and the strap is also crossed when it passes through a front pad (18) as shown in figure 1.

Allowable Subject Matter

6. Claims 15-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 7-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 103, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (703) 306-9184. The fax phone number for this group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

April 28, 2004

A handwritten signature in black ink, appearing to read 'Tejash Patel', with a long horizontal line extending to the right.

**TEJASH PATEL
PRIMARY EXAMINER**